

**DRIVER LICENSE DEFENSIVE DRIVING
COURSE AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to defensive driving courses for the driver license point system for traffic violations.

Highlighted Provisions:

This bill:

- ▶ defines defensive driving course;
- ▶ provides that a person may receive a 50 point reduction once every three years from the person's driving record if the person successfully completes certain defensive driving courses;
- ▶ establishes fees for a defensive driving instructor certification, an annual defensive driving instructor certification renewal, a duplicate defensive driving instructor certification, and a defensive driving instructor certification reinstatement;
- ▶ requires the Driver License Division to certify individuals for the purpose of conducting a defensive driving course;
- ▶ grants the Driver License Division the authority to cancel, revoke, or refuse to issue or renew a certification to conduct a defensive driving course;
- ▶ grants the Driver License Division rulemaking authority to:
 - establish minimum standards for the defensive driving course curriculum;
 - establish the standards and procedures for certification as a defensive driving



course instructor; and

- establish the standards and procedures for cancelling, revoking, or refusing to issue or renew a certification to conduct a defensive driving course; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-19a-211, as last amended by Laws of Utah 2008, Chapter 382

41-6a-403, as last amended by Laws of Utah 2008, Chapter 382

53-3-102, as last amended by Laws of Utah 2008, Chapter 322

53-3-105, as last amended by Laws of Utah 2008, Chapter 304

53-3-209, as renumbered and amended by Laws of Utah 1993, Chapter 234

53-3-218, as last amended by Laws of Utah 2006, Chapter 18

53-3-221, as last amended by Laws of Utah 2008, Chapters 322 and 382

ENACTS:

53-3-221.3, Utah Code Annotated 1953

53-3-511, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **31A-19a-211** is amended to read:

31A-19a-211. Premium rate reduction for seniors -- Motor vehicle accident prevention course -- Curriculum -- Certificate -- Exception.

(1) (a) Each rate, rating schedule, and rating manual for the liability, personal injury protection, and collision coverages of private passenger motor vehicle insurance policies submitted to or filed with the commissioner shall provide for an appropriate reduction in premium charges for those coverages if the principal operator of the covered vehicle:

(i) is a named insured who is 55 years of age or older; and

(ii) has successfully completed a motor vehicle accident prevention course as outlined

in Subsection (2).

(b) Any premium reduction provided by an insurer under this section is presumed to be appropriate unless credible data demonstrates otherwise.

(2) (a) The curriculum for a motor vehicle accident prevention course under this section shall include:

(i) how impairment of visual and audio perception affects driving performance and how to compensate for that impairment;

(ii) the effects of fatigue, medications, and alcohol on driving performance, when experienced alone or in combination, and precautionary measures to prevent or offset ill effects;

(iii) updates on rules of the road and equipment, including safety belts and safe, efficient driving techniques under present day road and traffic conditions;

(iv) how to plan travel time and select routes for safety and efficiency; and

(v) how to make crucial decisions in dangerous, hazardous, and unforeseen situations.

(b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Public Safety may make rules to establish and clarify standards pertaining to the curriculum and teaching methods of a course under this section.

(ii) These rules may include provisions allowing the department to conduct on-site visits to ensure compliance with agency rules and this chapter.

(iii) These rules shall be specific as to time and manner of visits and provide for methods to prohibit or remedy forcible visits.

(3) (a) The premium reduction required by this section shall be effective for a named insured for a three-year period after successful completion of the course outlined in Subsection (2).

(b) The insurer may require, as a condition of maintaining the premium reduction, that the named insured not be convicted or plead guilty or nolo contendere to a moving traffic violation for which points may be assessed against the named insured's driver license except for a violation under Subsection 53-3-221[~~(12)~~](11).

(4) Each person who successfully completes the course outlined in Subsection (2) shall be issued a certificate by the organization offering the course. The certificate qualifies the person for the premium reduction required by this section.

(5) This section does not apply if the approved course outlined in Subsection (2) is attended as a penalty imposed by a court or other governmental entity for a moving traffic violation.

Section 2. Section **41-6a-403** is amended to read:

41-6a-403. Vehicle accidents -- Investigation and report of operator security -- Agency action if no security -- Surrender of plates -- Penalties.

(1) (a) Upon request of a peace officer investigating an accident involving a motor vehicle, the operator of the motor vehicle shall provide evidence of the owner's or operator's security required under Section 41-12a-301.

(b) The evidence of owner's or operator's security includes information specified under Section 41-12a-303.2.

(2) The peace officer shall record on a form approved by the department:

(a) the information provided by the operator;

(b) whether the operator provided insufficient or no information;

(c) whether the officer finds reasonable cause to believe that any information given is not correct; and

(d) whether other information available to the peace officer indicates that owner's or operator's security is in effect.

(3) The peace officer shall deposit all completed forms with the peace officer's law enforcement agency, which shall forward the forms to the department no later than ten days after receipt.

(4) (a) The department shall within ten days of receipt of the forms from the law enforcement agency take action as follows:

(i) if the operator provided no information under Subsection (1) and other information available to the peace officer does not indicate that owner's or operator's security is in effect, the department shall take direct action under Subsection 53-3-221[(13)](12); or

(ii) if the peace officer noted or the department determines that there is reasonable cause to believe that the information given under Subsection (1) is not correct, the department shall contact directly the insurance company or other provider of security as described in Section 41-12a-303.2 and request verification of the accuracy of the information submitted as of the date of the accident.

(b) The department may require the verification under Subsection (4)(a)(ii) to be in a form specified by the department.

(c) The insurance company or other provider of security shall return the verification to the department within 30 days of receipt of the request.

(d) If the department does not receive verification within 35 days after sending the request, or within the 35 days receives notice that the information was not correct, the department shall take action under Subsection 53-3-221~~[(13)]~~(12).

(5) (a) The owner of a vehicle with unexpired license plates for which security is not provided as required under this chapter shall return the plates for the vehicle to the Motor Vehicle Division unless specifically permitted by statute to retain them.

(b) If the owner fails to return the plates as required, the plates shall be confiscated under Section 53-3-226.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules for the enforcement of this section.

(7) A person is guilty of a class B misdemeanor, and shall be fined not less than \$100, who:

(a) when requested to provide security information under Subsection (1), or Section 41-12a-303.2, provides false information;

(b) falsely represents to the department that security required under this chapter is in effect; or

(c) sells a vehicle to avoid the penalties of this section as applicable either to himself or a third party.

Section 3. Section **53-3-102** is amended to read:

53-3-102. Definitions.

As used in this chapter:

(1) "Cancellation" means the termination by the division of a license issued through error or fraud or for which consent under Section 53-3-211 has been withdrawn.

(2) "Class D license" means the class of license issued to drive motor vehicles not defined as commercial motor vehicles or motorcycles under this chapter.

(3) "Class M license" means the class of license issued to drive a motorcycle as defined under this chapter.

(4) "Commercial driver license" or "CDL" means a license issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle.

(5) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

(i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as determined by federal regulation;

(ii) is designed to transport 16 or more passengers, including the driver; or

(iii) is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(b) The following vehicles are not considered a commercial motor vehicle for purposes of Part 4, Uniform Commercial Driver License Act:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

(ii) vehicles controlled and driven by a farmer to transport agricultural products, farm machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation as a motor carrier for hire;

(iii) firefighting and emergency vehicles; and

(iv) recreational vehicles that are not used in commerce and are driven solely as family or personal conveyances for recreational purposes.

(6) "Conviction" means any of the following:

(a) an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

(b) an unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court;

(c) a plea of guilty or nolo contendere accepted by the court;

(d) the payment of a fine or court costs; or

(e) violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

(7) "Defensive driving course" means a course:

(a) that allows the division to grant a 50 point reduction from the operator's driving record if the operator successfully completes the course; and

(b) is conducted by an individual that is certified by the division in accordance with Section 53-3-511.

~~[(7)]~~ (8) "Denial" or "denied" means the withdrawal of a driving privilege by the division to which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner's or Operator's Security, do not apply.

~~[(8)]~~ (9) "Director" means the division director appointed under Section 53-3-103.

~~[(9)]~~ (10) "Disqualification" means either:

(a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state of a person's privileges to drive a commercial motor vehicle;

(b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386, that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part 391; or

(c) the loss of qualification that automatically follows conviction of an offense listed in 49 C.F.R. Part 383.51.

~~[(10)]~~ (11) "Division" means the Driver License Division of the department created in Section 53-3-103.

~~[(11)]~~ (12) "Drive" means:

(a) to operate or be in physical control of a motor vehicle upon a highway; and

(b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within the state.

~~[(12)]~~ (13) (a) "Driver" means any person who drives, or is in actual physical control of a motor vehicle in any location open to the general public for purposes of vehicular traffic.

(b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person who is required to hold a CDL under Part 4 or federal law.

~~[(13)]~~ (14) "Driving privilege card" means the evidence of the privilege granted and

issued under this chapter to drive a motor vehicle to a person whose privilege was obtained without using a Social Security number.

~~[(14)]~~ (15) "Extension" means a renewal completed in a manner specified by the division.

~~[(15)]~~ (16) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

~~[(16)]~~ (17) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public, as a matter of right, for traffic.

~~[(17)]~~ (18) "License" means the privilege to drive a motor vehicle.

~~[(18)]~~ (19) "License certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle.

~~[(19)]~~ (20) "Motorboat" has the same meaning as provided under Section 73-18-2.

~~[(20)]~~ (21) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

~~[(21)]~~ (22) "Office of Recovery Services" means the Office of Recovery Services, created in Section 62A-11-102.

~~[(22)]~~ (23) (a) "Owner" means a person other than a lienholder having an interest in the property or title to a vehicle.

(b) "Owner" includes a person entitled to the use and possession of a vehicle subject to a security interest in another person but excludes a lessee under a lease not intended as security.

~~[(23)]~~ (24) "Renewal" means to validate a license certificate so that it expires at a later date.

~~[(24)]~~ (25) "Reportable violation" means an offense required to be reported to the division as determined by the division and includes those offenses against which points are assessed under Section ~~[53-3-221]~~ 53-3-221.3.

~~[(25)]~~ (26) (a) "Resident" means an individual who:

(i) has established a domicile in this state, as defined in Section 41-1a-202, or regardless of domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(ii) engages in a trade, profession, or occupation in this state, or who accepts employment in other than seasonal work in this state, and who does not commute into the state;

(iii) declares himself to be a resident of this state by obtaining a valid Utah driver license certificate or motor vehicle registration; or

(iv) declares himself a resident of this state to obtain privileges not ordinarily extended to nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees.

(b) "Resident" does not include any of the following:

(i) a member of the military, temporarily stationed in this state;

(ii) an out-of-state student, as classified by an institution of higher education, regardless of whether the student engages in any type of employment in this state;

(iii) a person domiciled in another state or country, who is temporarily assigned in this state, assigned by or representing an employer, religious or private organization, or a governmental entity; or

(iv) an immediate family member who resides with or a household member of a person listed in Subsections ~~[(25)]~~ (26)(b)(i) through (iii).

~~[(26)]~~ (27) "Revocation" means the termination by action of the division of a licensee's privilege to drive a motor vehicle.

~~[(27)]~~ (28) (a) "School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students to and from home and school, or to and from school sponsored events.

(b) "School bus" does not include a bus used as a common carrier as defined in Section 59-12-102.

~~[(28)]~~ (29) "Suspension" means the temporary withdrawal by action of the division of a licensee's privilege to drive a motor vehicle.

~~[(29)]~~ (30) "Taxicab" means any class D motor vehicle transporting any number of passengers for hire and that is subject to state or federal regulation as a taxi.

Section 4. Section **53-3-105** is amended to read:

53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling, and identification cards.

The following fees apply under this chapter:

- 276 (1) An original class D license application under Section 53-3-205 is \$25.
- 277 (2) An original provisional license application for a class D license under Section
- 278 53-3-205 is \$30.
- 279 (3) An original application for a motorcycle endorsement under Section 53-3-205 is
- 280 \$9.50.
- 281 (4) An original application for a taxicab endorsement under Section 53-3-205 is \$7.
- 282 (5) A learner permit application under Section 53-3-210.5 is \$15.
- 283 (6) A renewal of a class D license under Section 53-3-214 is \$25 unless Subsection
- 284 (10) applies.
- 285 (7) A renewal of a provisional license application for a class D license under Section
- 286 53-3-214 is \$25.
- 287 (8) A renewal of a motorcycle endorsement under Section 53-3-214 is \$9.50.
- 288 (9) A renewal of a taxicab endorsement under Section 53-3-214 is \$7.
- 289 (10) A renewal of a class D license for a person 65 and older under Section 53-3-214 is
- 290 \$13.
- 291 (11) An extension of a class D license under Section 53-3-214 is \$20 unless Subsection
- 292 (15) applies.
- 293 (12) An extension of a provisional license application for a class D license under
- 294 Section 53-3-214 is \$20.
- 295 (13) An extension of a motorcycle endorsement under Section 53-3-214 is \$9.50.
- 296 (14) An extension of a taxicab endorsement under Section 53-3-214 is \$7.
- 297 (15) An extension of a class D license for a person 65 and older under Section
- 298 53-3-214 is \$11.
- 299 (16) An original or renewal application for a commercial class A, B, or C license or an
- 300 original or renewal of a provisional commercial class A or B license under Part 4, Uniform
- 301 Commercial Driver License Act, is:
- 302 (a) \$40 for the knowledge test; and
- 303 (b) \$60 for the skills test.
- 304 (17) Each original CDL endorsement for passengers, hazardous material, double or
- 305 triple trailers, or tankers is \$7.
- 306 (18) An original CDL endorsement for a school bus under Part 4, Uniform Commercial

307 Driver License Act, is \$7.

308 (19) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver
309 License Act, is \$7.

310 (20) (a) A retake of a CDL knowledge test provided for in Section 53-3-205 is \$20.

311 (b) A retake of a CDL skills test provided for in Section 53-3-205 is \$40.

312 (21) A retake of a CDL endorsement test provided for in Section 53-3-205 is \$7.

313 (22) A duplicate class A, B, C, or D license certificate under Section 53-3-215 is \$18.

314 (23) (a) A license reinstatement application under Section 53-3-205 is \$30.

315 (b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or
316 combination of alcohol and any drug-related offense is \$35 in addition to the fee under
317 Subsection (23)(a).

318 (24) (a) An administrative fee for license reinstatement after an alcohol, drug, or
319 combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or
320 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under
321 Part 4, Uniform Commercial Driver License Act, is \$170.

322 (b) This administrative fee is in addition to the fees under Subsection (23).

323 (25) (a) An administrative fee for providing the driving record of a driver under
324 Section 53-3-104 or 53-3-420 is \$6.

325 (b) The division may not charge for a report furnished under Section 53-3-104 to a
326 municipal, county, state, or federal agency.

327 (26) A rescheduling fee under Section 53-3-205 or 53-3-407 is \$25.

328 (27) (a) Except as provided under Subsection (27)(b), an identification card application
329 under Section 53-3-808 is \$18.

330 (b) An identification card application under Section 53-3-808 for a person with a
331 disability, as defined in 42 U.S.C. Sec. 12102, is \$13.

332 (28) (a) A defensive driving instructor certification fee under Section 53-3-511 is \$30.

333 (b) An annual defensive driving course instructor certification renewal fee under
334 Section 53-3-511 is \$20.

335 (c) A defensive driving course instructor certification duplicate fee is \$6.

336 (d) A defensive driving course instructor certification reinstatement fee under Section
337 53-3-511 is \$75.

Section 5. Section **53-3-209** is amended to read:

53-3-209. Provisional licenses only for persons under 21 -- Separate point system -- Denial and suspension procedures.

(1) The division may only grant a provisional license to a person younger than 21 years of age.

(2) (a) The division shall make rules for the establishment and administration of a separate point system for persons granted provisional licenses to facilitate counseling, penalization, or both earlier than for persons 21 years of age or older.

(b) The rules shall establish point thresholds at which each of the following actions are taken:

(i) a warning letter;

(ii) a request to appear for a hearing;

(iii) a denial of the driving privilege for first or second actions where the point total established under Section ~~[53-3-221]~~ 53-3-221.3 does not exceed the point threshold under which a person 21 years or older may be suspended; and

(iv) a suspension of the driving privilege.

(c) The rules shall require:

(i) an extension of the denial or suspension period for further violations within the three-year period; and

(ii) denial or suspension of the driving privilege for failure to appear for a hearing required under this section.

Section 6. Section **53-3-218** is amended to read:

53-3-218. Court to report convictions and may recommend suspension of license -- Severity of speeding violation defined.

(1) As used in this section, "conviction" means conviction by the court of first impression or final administrative determination in an administrative traffic proceeding.

(2) (a) A court having jurisdiction over offenses committed under this chapter or any other law of this state, or under any municipal ordinance regulating driving motor vehicles on highways or driving motorboats on the water, shall forward to the division within ten days, an abstract of the court record of the conviction or plea held in abeyance of any person in the court for a reportable traffic or motorboating violation of any laws or ordinances, and may

recommend the suspension of the license of the person convicted.

(b) When the division receives a court record of a conviction or plea in abeyance for a motorboat violation, the division may only take action against a person's driver license if the motorboat violation is for a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(3) The abstract shall be made in the form prescribed by the division and shall include:

(a) the name, date of birth, and address of the party charged;

(b) the license certificate number of the party charged, if any;

(c) the registration number of the motor vehicle or motorboat involved;

(d) whether the motor vehicle was a commercial motor vehicle;

(e) whether the motor vehicle carried hazardous materials;

(f) whether the motor vehicle carried 16 or more occupants;

(g) whether the driver presented a commercial driver license;

(h) the nature of the offense;

(i) whether the offense involved an accident;

(j) the driver's blood alcohol content, if applicable;

(k) if the offense involved a speeding violation:

(i) the posted speed limit;

(ii) the actual speed; and

(iii) whether the speeding violation occurred on a highway that is part of the interstate system as defined in Section 72-1-102;

(l) the date of the hearing;

(m) the plea;

(n) the judgment or whether bail was forfeited; and

(o) the severity of the violation, which shall be graded by the court as "minimum," "intermediate," or "maximum" as established in accordance with ~~[Subsection 53-3-221(4)]~~ Section 53-3-221.3.

(4) When a convicted person secures a judgment of acquittal or reversal in any appellate court after conviction in the court of first impression, the division shall reinstate his license immediately upon receipt of a certified copy of the judgment of acquittal or reversal.

Section 7. Section **53-3-221** is amended to read:

53-3-221. Offenses which may result in denial, suspension, disqualification, or revocation of license without hearing -- Additional grounds for suspension -- Notice and hearing -- Reporting of traffic violation procedures.

(1) By following the emergency procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may immediately deny, suspend, disqualify, or revoke the license of any person without hearing and without receiving a record of the person's conviction of crime when the division has been notified or has reason to believe the person:

(a) has committed any offenses for which mandatory suspension or revocation of a license is required upon conviction under Section 53-3-220;

(b) has, by reckless or unlawful driving of a motor vehicle, caused or contributed to an accident resulting in death or injury to any other person, or serious property damage;

(c) is incompetent to drive a motor vehicle or is afflicted with mental or physical infirmities or disabilities rendering it unsafe for the person to drive a motor vehicle upon the highways;

(d) has committed a serious violation of the motor vehicle laws of this state;

(e) has knowingly acquired, used, displayed, or transferred an item that purports to be an authentic driver license certificate issued by a governmental entity if the item is not an authentic driver license certificate or has permitted an unlawful use of the license as prohibited under Section 53-3-229; or

(f) has been convicted of serious offenses against traffic laws governing the movement of motor vehicles with a frequency that indicates a disrespect for traffic laws and a disregard for the safety of other persons on the highways.

(2) (a) The division may suspend the license of a person under Subsection (1) when the person has failed to comply with the terms stated on a traffic citation issued in this state, except this Subsection (2) does not apply to highway weight limit violations or violations of law governing the transportation of hazardous materials.

(b) This Subsection (2) applies to parking and standing violations only if a court has issued a warrant for the arrest of a person for failure to post bail, appear, or otherwise satisfy the terms of the citation.

(c) (i) This Subsection (2) may not be exercised unless notice of the pending suspension of the driving privilege has been sent at least ten days previously to the person at

the address provided to the division.

(ii) After clearance by the division, a report authorized by Section 53-3-104 may not contain any evidence of a suspension that occurred as a result of failure to comply with the terms stated on a traffic citation.

(3) (a) The division may suspend the license of a person under Subsection (1) when the division has been notified by a court that the person has an outstanding unpaid fine, an outstanding incomplete restitution requirement, or an outstanding warrant levied by order of a court.

(b) The suspension remains in effect until the division is notified by the court that the order has been satisfied.

(c) After clearance by the division, a report authorized by Section 53-3-104 may not contain any evidence of the suspension.

~~[(4) The division shall make rules establishing a point system as provided for in this Subsection (4).]~~

~~[(a) (i) The division shall assign a number of points to each type of moving traffic violation as a measure of its seriousness.]~~

~~[(ii) The points shall be based upon actual relationships between types of traffic violations and motor vehicle traffic accidents.]~~

~~[(b) Every person convicted of a traffic violation shall have assessed against the person's driving record the number of points that the division has assigned to the type of violation of which the person has been convicted, except that the number of points assessed shall be decreased by 10% if on the abstract of the court record of the conviction the court has graded the severity of violation as minimum, and shall be increased by 10% if on the abstract the court has graded the severity of violation as maximum.]~~

~~[(c) (i) A separate procedure for assessing points for speeding offenses shall be established by the division based upon the severity of the offense.]~~

~~[(ii) The severity of a speeding violation shall be graded as:]~~

~~[(A) "minimum" for exceeding the posted speed limit by up to ten miles per hour;]~~

~~[(B) "intermediate" for exceeding the posted speed limit by from 11 to 20 miles per hour; and]~~

~~[(C) "maximum" for exceeding the posted speed limit by 21 or more miles per hour.]~~

462 ~~[(iii) Consideration shall be made for assessment of no points on minimum speeding~~
463 ~~violations, except for speeding violations in school zones.]~~

464 ~~[(d) (i) Points assessed against a person's driving record shall be deleted for violations~~
465 ~~occurring before a time limit set by the division.]~~

466 ~~[(ii) The time limit may not exceed three years.]~~

467 ~~[(iii) The division may also delete points to reward violation-free driving for periods of~~
468 ~~time set by the division.]~~

469 ~~[(e) (i) By publication in two newspapers having general circulation throughout the~~
470 ~~state, the division shall give notice of the number of points it has assigned to each type of~~
471 ~~traffic violation, the time limit set by the division for the deletion of points, and the point level~~
472 ~~at which the division will generally take action to deny or suspend under this section.]~~

473 ~~[(ii) The division may not change any of the information provided above regarding~~
474 ~~points without first giving new notice in the same manner.]~~

475 ~~[(5)]~~ (4) (a) (i) Upon denying or suspending the license of a person under this section,
476 the division shall immediately notify the licensee in a manner specified by the division and
477 afford him an opportunity for a hearing in the county where the licensee resides.

478 (ii) The hearing shall be documented, and the division or its authorized agent may
479 administer oaths, may issue subpoenas for the attendance of witnesses and the production of
480 relevant books and papers, and may require a reexamination of the licensee.

481 (iii) One or more members of the division may conduct the hearing, and any decision
482 made after a hearing before any number of the members of the division is as valid as if made
483 after a hearing before the full membership of the division.

484 (iv) After the hearing the division shall either rescind its order of denial or suspension,
485 extend the denial or suspension of the license, or revoke the license.

486 (b) The denial or suspension of the license remains in effect pending qualifications
487 determined by the division regarding a person:

488 (i) whose license has been denied or suspended following reexamination;

489 (ii) who is incompetent to drive a motor vehicle;

490 (iii) who is afflicted with mental or physical infirmities that might make him dangerous
491 on the highways; or

492 (iv) who may not have the necessary knowledge or skill to drive a motor vehicle safely.

493 ~~[(6)]~~ (5) (a) Subject to Subsection ~~[(6)]~~ (5)(d), the division shall suspend a person's
494 license when the division receives notice from the Office of Recovery Services that the Office
495 of Recovery Services has ordered the suspension of the person's license.

496 (b) A suspension under Subsection ~~[(6)]~~ (5)(a) shall remain in effect until the division
497 receives notice from the Office of Recovery Services that the Office of Recovery Services has
498 rescinded the order of suspension.

499 (c) After an order of suspension is rescinded under Subsection ~~[(6)]~~ (5)(b), a report
500 authorized by Section 53-3-104 may not contain any evidence of the suspension.

501 (d) (i) If the division suspends a person's license under this Subsection ~~[(6)]~~ (5), the
502 division shall, upon application, issue a temporary limited driver license to the person if that
503 person needs a driver license for employment, education, or child visitation.

504 (ii) The temporary limited driver license described in this section:

505 (A) shall provide that the person may operate a motor vehicle only for the purpose of
506 driving to or from the person's place of employment, education, or child visitation;

507 (B) shall prohibit the person from driving a motor vehicle for any purpose other than a
508 purpose described in Subsection ~~[(6)]~~ (5)(d)(ii)(A); and

509 (C) shall expire 90 days after the day on which the temporary limited driver license is
510 issued.

511 (iii) (A) During the period beginning on the day on which a temporary limited driver
512 license is issued under this Subsection ~~[(6)]~~ (5), and ending on the day that the temporary
513 limited driver license expires, the suspension described in this Subsection ~~[(6)]~~ (5) only applies
514 if the person who is suspended operates a motor vehicle for a purpose other than employment,
515 education, or child visitation.

516 (B) Upon expiration of a temporary limited driver license described in this Subsection
517 ~~[(6)]~~ (5)(d):

518 (I) a suspension described in Subsection ~~[(6)]~~ (5)(a) shall be in full effect until the
519 division receives notice, under Subsection ~~[(6)]~~ (5)(b), that the order of suspension is
520 rescinded; and

521 (II) a person suspended under Subsection ~~[(6)]~~ (5)(a) may not drive a motor vehicle for
522 any reason.

523 (iv) The division is not required to issue a limited driver license to a person under this

Subsection ~~[(6)]~~ (5)(d) if there are other legal grounds for the suspension of the person's driver license.

(v) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this part.

~~[(7)]~~ (6) (a) The division may suspend or revoke the license of any resident of this state upon receiving notice of the conviction of that person in another state of an offense committed there that, if committed in this state, would be grounds for the suspension or revocation of a license.

(b) The division may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle or motorboat of any offense under the motor vehicle laws of this state, forward a certified copy of the record to the motor vehicle administrator in the state where the person convicted is a resident.

~~[(8)]~~ (7) (a) The division may suspend or revoke the license of any nonresident to drive a motor vehicle in this state for any cause for which the license of a resident driver may be suspended or revoked.

(b) Any nonresident who drives a motor vehicle upon a highway when the person's license has been suspended or revoked by the division is guilty of a class C misdemeanor.

~~[(9)]~~ (8) (a) The division may not deny or suspend the license of any person for a period of more than one year except:

(i) for failure to comply with the terms of a traffic citation under Subsection (2);

(ii) upon receipt of a second or subsequent order suspending juvenile driving privileges under Section 53-3-219;

(iii) when extending a denial or suspension upon receiving certain records or reports under Subsection 53-3-220(2);

(iv) for failure to give and maintain owner's or operator's security under Section 41-12a-411; or

(v) when the division suspends the license under Subsection ~~[(6)]~~ (5).

(b) The division may suspend the license of a person under Subsection (2) until the person shows satisfactory evidence of compliance with the terms of the traffic citation.

~~[(10)]~~ (9) (a) By following the emergency procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may immediately suspend the license of any

555 person without hearing and without receiving a record of the person's conviction for a crime
556 when the division has reason to believe that the person's license was granted by the division
557 through error or fraud or that the necessary consent for the license has been withdrawn or is
558 terminated.

559 (b) The procedure upon suspension is the same as under Subsection [~~(5)~~] (4), except
560 that after the hearing the division shall either rescind its order of suspension or cancel the
561 license.

562 [~~(H)~~] (10) (a) The division, having good cause to believe that a licensed driver is
563 incompetent or otherwise not qualified to be licensed, may upon notice in a manner specified
564 by the division of at least five days to the licensee require him to submit to an examination.

565 (b) Upon the conclusion of the examination the division may suspend or revoke the
566 person's license, permit him to retain the license, or grant a license subject to a restriction
567 imposed in accordance with Section 53-3-208.

568 (c) Refusal or neglect of the licensee to submit to an examination is grounds for
569 suspension or revocation of the licensee's license.

570 [~~(12)~~] (11) (a) Except as provided in Subsection [~~(12)~~] (11)(b), a report authorized by
571 Section 53-3-104 may not contain any evidence of a conviction for speeding on an interstate
572 system in this state if the conviction was for a speed of ten miles per hour or less, above the
573 posted speed limit and did not result in an accident, unless authorized in a manner specified by
574 the division by the individual whose report is being requested.

575 (b) The provisions of Subsection [~~(12)~~] (11)(a) do not apply for:

576 (i) a CDL license holder; or

577 (ii) a violation that occurred in a commercial motor vehicle.

578 [~~(13)~~] (12) (a) By following the emergency procedures in Title 63G, Chapter 4,
579 Administrative Procedures Act, the division may immediately suspend the license of a person
580 if it has reason to believe that the person is the owner of a motor vehicle for which security is
581 required under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and
582 Operators Act, and has driven the motor vehicle or permitted it to be driven within this state
583 without the security being in effect.

584 (b) The division may immediately suspend a driving privilege card holder's driving
585 privilege card if the division receives notification from the Motor Vehicle Division that:

- 586 (i) the driving privilege card holder is the registered owner of a vehicle; and
587 (ii) the driving privilege card holder's vehicle registration has been revoked under
588 Subsection 41-1a-110(2)(a)(ii)(A).
- 589 (c) Section 41-12a-411 regarding the requirement of proof of owner's or operator's
590 security applies to persons whose driving privileges are suspended under this Subsection [~~(13)~~]
591 (12).
- 592 (d) If the division exercises the right of immediate suspension granted under this
593 Subsection [~~(13)~~] (12), the notice and hearing provisions of Subsection [~~(5)~~] (4) apply.
- 594 (e) A person whose license suspension has been sustained or whose license has been
595 revoked by the division under this Subsection [~~(13)~~] (12) may file a request for agency action
596 requesting a hearing.
- 597 [~~(14)~~] (13) Any suspension or revocation of a person's license under this section also
598 disqualifies any license issued to that person under Part 4, Uniform Commercial Driver License
599 Act, of this chapter.

600 Section 8. Section **53-3-221.3** is enacted to read:

601 **53-3-221.3. Point system for traffic violations.**

602 (1) (a) The division shall assign a number of points to each type of moving traffic
603 violation as a measure of its seriousness.

604 (b) The points shall be based upon actual relationships between types of traffic
605 violations and motor vehicle traffic accidents.

606 (2) (a) Except as provided in Subsection (2)(b), every person convicted of a traffic
607 violation shall have assessed against the person's driving record the number of points that the
608 division has assigned to the type of violation of which the person has been convicted.

609 (b) The number of points assessed shall be:

610 (i) decreased by 10% if on the abstract of the court record of the conviction the court
611 has graded the severity of violation as minimum; and

612 (ii) increased by 10% if on the abstract the court has graded the severity of violation as
613 maximum.

614 (c) The total number of points accumulated against a person's driving record may be
615 decreased by 50 points once in a three-year period if:

616 (i) the person successfully completes a defensive driving course conducted by a

617 certified instructor under Section 53-3-511; or

618 (ii) the person:

619 (A) is a Utah resident who is licensed in the state of Utah;

620 (B) is temporarily residing in another state or country; and

621 (C) has completed a defensive driving course:

622 (I) located in the state or country that the person is currently residing in; and

623 (II) approved by the division.

624 (3) (a) A separate procedure for assessing points for speeding offenses shall be
625 established by the division based upon the severity of the offense.

626 (b) The severity of a speeding violation shall be graded as:

627 (i) "minimum" for exceeding the posted speed limit by up to ten miles per hour;

628 (ii) "intermediate" for exceeding the posted speed limit by 11 to 20 miles per hour; and

629 (iii) "maximum" for exceeding the posted speed limit by 21 or more miles per hour.

630 (c) Consideration shall be made for assessment of no points on minimum speeding
631 violations, except for speeding violations in school zones.

632 (4) (a) Points assessed against a person's driving record shall be deleted for violations
633 occurring before a time limit set by the division.

634 (b) The time limit under Subsection (4)(a) may not exceed three years.

635 (c) The division may also delete points to reward violation-free driving for periods of
636 time set by the division.

637 (5) (a) By publication in two newspapers having general circulation throughout the
638 state, the division shall give notice of:

639 (i) the number of points it has assigned to each type of traffic violation;

640 (ii) the time limit set by the division for the deletion of points; and

641 (iii) the point level at which the division will generally take action to deny or suspend a
642 driver license under Section 53-3-221.

643 (b) The division may not change any of the information provided in Subsection (5)(a)
644 regarding points without first giving new notice in the same manner as described in Subsection
645 (5)(a).

646 (6) In accordance with Section 53-3-209, the division shall establish and administer a
647 separate point system for persons granted provisional licenses.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(a) establishing a point system as provided for in this section;

(b) establishing time limits for the deletion of points; and

(c) establishing a point level at which the division will generally take action to deny or suspend a driver license.

Section 9. Section **53-3-511** is enacted to read:

53-3-511. Individuals certified to conduct defensive driving course.

(1) The division shall establish procedures and standards to certify individuals for the purpose of conducting a defensive driving course who:

(a) have a valid Utah driver license; and

(b) are physically located within the state.

(2) The division is the certifying authority.

(3) (a) Subject to the requirements of this section, an individual certified under this section may conduct a defensive driving course authorized under this chapter.

(b) An individual certified under this section shall:

(i) pay a defensive driving instructor certification fee under Section 53-3-105 at the time of certification; and

(ii) pay an annual defensive driving instructor certification renewal fee under Section 53-3-105 annually after the time of certification.

(4) The department may cancel, revoke, or refuse to issue or renew a certification to conduct a defensive driving course if it finds that the individual has not complied with, or has violated, this part or any rule made by the division.

(5) An individual whose certification has been canceled or revoked:

(a) shall return a canceled or revoked evidence of certification to the division; and

(b) is not eligible to apply for certification under this part:

(i) until six months have elapsed since the date of a cancellation or revocation under this section; and

(ii) the individual has paid the defensive driver instructor certification reinstatement fee under Section 53-3-105.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

679 division shall make rules:
680 (a) establishing minimum standards for the defensive driving course curriculum;
681 (b) establishing the standards and procedures for certification as a defensive driving
682 course instructor; and
683 (c) establishing the standards and procedures for cancelling, revoking, or refusing to
684 issue or renew a certification to conduct a defensive driving course.

Legislative Review Note
as of 2-2-09 10:17 AM

Office of Legislative Research and General Counsel

S.B. 151 - Driver License Defensive Driving Course Amendments**Fiscal Note**

2009 General Session

State of Utah

State Impact

Enactment of this bill will require the Department of Public Safety to spend \$14,600 annually in Restricted Funds beginning FY 2010. The Department believes it can handle this expenditure within existing resources. The bill will generate \$600 per year in new Restricted Fund revenue beginning FY 2010.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
Transportation Fund Restricted	\$0	\$14,600	\$14,600	\$0	\$600	\$600
Total	\$0	\$14,600	\$14,600	\$0	\$600	\$600

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
